

IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1891.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 823.]

The Committee on Military Affairs, to which was referred the bill (S. 823) to remove the charge of desertion from the military record of John Roos, have duly considered the same and submit the following report:

This bill directs the Secretary of War to so amend the military record of John Roos, late private of Company A, One hundred and third Pennsylvania Volunteers, as to remove the charge of desertion and grant him an honorable discharge, with all the pay and other emoluments due him at the date he was granted a furlough, in October, 1862.

Your committee referred the bill to the Secretary of War for information and report, and received in reply the following letter and accompanying report:

WAR DEPARTMENT,
Washington City, July 11, 1890.

SIR: In reply to your request of the 9th instant for information upon Senate bill 823, Fifty-first Congress, first session, to provide for the relief of John Roos, Company A, One hundred and third Pennsylvania Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

L. A. GRANT,
Assistant Secretary of War.

Hon. JOSEPH R. HAWLEY,
Chairman Committee on Military Affairs, United States Senate.

Case of John Roos, late of Company A, One hundred and third Pennsylvania Volunteers.

John Roos, private, Company A, One hundred and third New York Volunteers, (name not found on rolls of Company A, One hundred and third Pennsylvania Volunteers), was enrolled at New York City December 12, 1861, to serve three years, and is reported present on the muster rolls of company to April 30, 1862. On roll for May and June, 1862, he is reported "Absent, sick in hospital at New Berne, N. C."; July and August, 1862, "Absent, sick in hospital, Washington, N. C."; September and October, 1862, "Absent, sick in Washington"; November and December, 1862, "Absent, in hospital, Washington." On subsequent rolls to June 30, 1863, "Absent, sick in hospital." Roll for July and August, 1863, reports him "dropped; in hospital since July 15, 1862, without notice since." His name is dropped from all subsequent rolls until the muster-out roll of company, dated March 18, 1865, which reports him "Discharged May 30, 1862, at Fredericksburgh, Va."

The regimental return for August, 1863, reports him "dropped from rolls, being absent from the regiment over a year; dropped by order of the mustering officer."

Hospital records show him entered Craven Street General Hospital, New Berne, N. C., June 21, 1862, with chronic rheumatism, and returned to duty July 26, 1862; ad-

mitted to Carver General Hospital (on Meridian Hill), Washington, D. C., August 29, 1862, with nostalgia, and transferred August 31, 1862; was in General Hospital, Portsmouth Grove, R. I., September 11, 1862, date of admission, diagnosis and disposition not stated.

Records of Washington, N. C., and of Fort Monroe, Va., furnish no information in the case.

His name is not borne on muster rolls of hospital at Portsmouth Grove, R. I., on file in this Department.

In a letter dated Newark, N. J., August 22, 1886, claimant states that he enlisted and went with his regiment to Newberne, N. C.; that while there he, with other soldiers, was sent to the woods to get green branches for shade before the officers' tents; that while so engaged Captain Ringold, of his company, came out where he was working; that the captain was in a furious rage, rode him down with his horse, breaking his left leg, the upper joint being put out of its place, as was also the left knee, besides several flesh wounds were inflicted at the time; that his broken leg was set by the surgeon of the regiment, but the joints could not be set right, and was taken to hospital at New Berne, N. C., where he remained 9 or 10 weeks, when he began to walk again; that when the regiment left North Carolina for Virginia he was sent to Fort Monroe, and thence to hospital at Washington, D. C., where he remained a couple of weeks, when he was sent to Portsmouth Grove, R. I.; that he remained at the latter place about 5 or 6 weeks, when he received an official letter from the "court" of his birthplace that his mother was dead, and that business connected with the estate would require his presence, so he had to apply for a furlough to New York to transact said business with the German consul; that after said business had been transacted he was preparing to return to Rhode Island when he was met by his former employers, who urged him to remain and work for them making buttons, saying that he was completely disabled and of no use as a soldier; that they finally prevailed upon him to stay and work for them; that he had no intention of deserting when he applied for furlough, as he was completely disabled. Claimant further says that his left leg since that time is $1\frac{1}{2}$ inches shorter than the other and is a permanent weather indicator, giving him great pain at every change in the temperature, so that he is sometimes not able to walk for weeks.

(There is no record of his having been granted a furlough from general hospital, Portsmouth Grove, R. I.)

On March 21, 1887, the claimant was informed that the records show that he deserted on or about September 11, 1862, and never returned; that as he in his own statement virtually admits the fact of desertion; does not establish by evidence that he was prevented from completing his term of enlistment by reason of wounds received, or disease contracted in the line of duty; did not desert from furlough given to him from hospital, and never voluntarily returned to his command. There is no provision of law under which the Department is authorized to grant the application, and that the same is, therefore, denied.

The case was subsequently submitted with the following additional testimony:

In a letter to his attorney, dated Newark, N. J., August 16, 1888, claimant states that the charge that he deserted September 11, 1862, is erroneous; that on that date he was with the regiment at Fredericksburgh, Va., and was sent with sick and disabled soldiers to hospital at Washington; that after the battle of Antietam, September 17, 1862, the whole hospital was cleared out and he was put on steamer and taken to Portsmouth Grove, R. I., and was in the hospital at that place from September 20 to about October 28, 1862, when he got a furlough from Dr. Knowles, now deceased, to go home. He further states that it was an impossibility to desert from the hospital at Portsmouth Grove, R. I., as that place is a complete island where no one could leave without a passport or a furlough.

Henry Berger, aged 62 years, of New York City, in affidavit executed August 2, 1888, declares that he was a resident of Tarrytown, N. Y., from 1856 to 1864; that he knows claimant who resided there from 1858 to 1863; knows that claimant came home from hospital with a furlough the latter part of October, 1862; that he saw claimant with a broken leg, only half cured, and afflicted with acute rheumatism caused by hard, stormy journey on Long Island Sound; that claimant was confined to his bed all the following winter and absolutely not able to walk for a longer time; that the only physician in Tarrytown, who attended him, is dead; that claimant has suffered ever since by every change of the weather, so it was absolutely impossible for him to return to hospital.

Henry Fischer, aged 52 years, of Tarrytown, N. Y., in affidavit executed August 14, 1888, gives identical testimony.

On September 13, 1888, the attorney in the case was informed, by letter from this Department, as follows:

* * * "This man's statement about his broken leg is clearly false, as he was treated in a Washington hospital for 'nostalgia,' and thereafter he was not with his

command. Moreover, his admission respecting the grounds on which he claims to have been furloughed and induced not to return to the service, serve to confirm the validity of the charge of desertion.

"The application is therefore denied."

The status of the case has not been changed by the introduction of additional testimony, nor by subsequent legislation (act of March 2, 1889).

Respectfully submitted.

F. C. AINSWORTH,

Captain and Assistant Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, July 11, 1890.

THE SECRETARY OF WAR.

This official report shows that the name of the claimant is not found on the rolls of Company A, One hundred and third Pennsylvania Volunteers, and that the said John Roos was enrolled in Company A, One hundred and third New York Volunteers at New York City, December 12, 1861, to serve 3 years, and that on the muster roll of May and June, 1862, he is reported: "Absent sick at hospital at New Berne, N. C.," and for July and August, 1862, "Absent sick in hospital, Washington, N. C." September and October, 1862, "Absent sick in Washington;" November and December, 1862, "Absent in hospital, Washington," and on subsequent rolls to June 30, 1863, "Absent sick in hospital," and on the roll for July and August, 1863, reports him "dropped; in hospital since July 15, 1862; without notice since." His name is dropped from all subsequent rolls until the muster out roll of company, dated March 18, 1865, which reports him, "Discharged May 30, 1862, at Fredericksburgh, Va.

The regimental return for August, 1863, reports him dropped from the rolls, being absent from the regiment over a year.

The hospital records show that he entered the Craven Street General Hospital, New Berne, N. C., June 21, 1862, with chronic rheumatism and returned to duty July 26, 1862; then admitted to Carver General Hospital August 29, 1862, with nostalgia and transferred August 31, 1862; was in general hospital, Portsmouth Grove, R. I., September 11, 1862, date of admission, diagnosis and disposition not stated.

The report accompanying the letter of the Secretary of War shows that this soldier, in August, 1886, for the first time applied to the War Department for the removal of the charge of desertion, stating that—

He, with other soldiers, was sent to the woods to get green branches for shade before the officer's tents; that while so engaged Captain Ringold, of his company, came out where he was working; that the captain was in a furious rage, rode him down with his horse, breaking his left leg, the upper joint being put out of its place, as was also the left knee, besides several flesh wounds were inflicted at the time; that his broken leg was set by the surgeon of the regiment, but the joints could not be set right, and was taken to the hospital at New Berne, N. C., where he remained 9 or 10 weeks, when he began to walk again; that when the regiment left North Carolina for Virginia he was sent to Fort Monroe, and thence to hospital at Washington, D. C., where he remained a couple of weeks, when he was sent to Portsmouth Grove, R. I.; that he remained at the latter place about 5 or 6 weeks, when he received an official letter from the court of his birthplace that his mother was dead and that business connected with the estate would require his presence, so he had to apply for a furlough to New York to transact said business with the German consul; that after said business had been transacted he was preparing to return to Rhode Island, when he was met by his former employers, who urged him to remain and work for them making buttons, saying that he was completely disabled and of no use as a soldier; that they finally prevailed upon him to stay and work for them.

There is no record of his having been granted a furlough, and he practically admits that he remained away to work for his former employers, and there is no statement or evidence that he ever reported to his company or to the hospitals the reason of his absence. There is no

evidence whatever in regard to his having had his leg broken in the manner stated, and if that were a fact, certainly he could procure the evidence of some company officer or some of his comrades, and if his leg had been broken and on that account he had been sent to the hospital it is remarkably strange that no note should have been made of that fact, and that the records of the hospital only show that he was admitted for chronic rheumatism and from this he was sufficiently recovered to be returned to duty in July, 1862.

This claimant does not show himself entitled to any relief whatever.

Your committee therefore report the bill back to the Senate adversely and recommend that it be indefinitely postponed and the relief prayed for be not granted,

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